

United States Senate

WASHINGTON, D.C. 20510

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Country of Origin Labeling Program
Agricultural Marketing Service
United States Department of Agriculture
Stop 0249, Room 2092-S
1400 Independence Avenue, SW
Washington, D.C. 20250-0249

RE: Federal Register, Volume 67, Number 198, Friday, October 11, 2002.
Establishment of Guidelines for the Interim Voluntary Country of Origin Labeling of Beef, Lamb, Pork, Fish, Perishable Agricultural Commodities, and Peanuts under the Authority of the Agricultural Marketing Act of 1946.

Dear Associate Deputy Administrators Forman and Sessions:

We welcome the opportunity to comment on United States Department of Agriculture (USDA) voluntary country of origin labeling guidelines. We understand that USDA will begin to promulgate a regulation for mandatory labeling this month, and that the regulation will likely be based in part on the voluntary rules and input received concerning the guidelines in the Federal Register.

We support Section 10816 of Public Law 107-171 (7 U.S.C. 1638-1638d) which amends the Agricultural Marketing Act of 1946 to require retailers to inform consumers of the country of origin for commodities covered under the Section, including fish. We submit the following comments regarding the law as it applies to seafood in a format that follows the Federal Register notice.

Defining Covered Commodities

In the case of seafood, United States country-of-origin shall apply to farm raised and net pen fish and shellfish both hatched and processed in the United States. Fillets, steaks, nuggets as well as any other flesh of the fish or shellfish is included. Wild fish harvested in the waters of the United States or by a U.S. flagged vessel and processed in the United States or aboard a U.S. flagged vessel will also be considered to be of United States Country of Origin. The addition of breading or other spices shall not constitute a material change to the product.

Processed and Blended Food Items

The addition of spices, breading or other coating of covered fish and shellfish should not constitute a material change under the guidelines and thus, should require a country-of-origin designation. Thus, shrimp or other seafood imported from a foreign nation and breaded in the

United States must be labeled as a product of that nation, not of the United States. Such an approach ensures that consumers to obtain accurate information about the source of the seafood and has the added benefit of allowing regulators to identify seafood for potential recall in case of adulteration or contamination. Absolute clarity on this point is critical for consumers, particularly given recent reports from GAO and others concerning alarming gaps in FDA's current inspection regime for imported seafood. Any interpretation of the law that could be used to mislead consumers as to the true origin of the seafood would be contrary to Congressional intent and would undermine the very purpose of the law.

Furthermore, we do not believe that cooking or canning alters the character of a fish product to the point that its character is no longer that of the covered seafood. Salmon flesh in a can is still salmon flesh, and is within the range of products Congress clearly intended to be covered. Cod or pollock flesh in a breaded fish stick is still cod or pollock flesh. It is inconsistent to suggest that a fish stick consisting of reformed fish covered in breading is to be exempted, but a breaded fish fillet is not. Also, some sushi products, such as sashimi (sliced raw fish) offered as a separate item, should not be exempted, where the same fish used as only an ingredient in a sushi roll might be. Surimi, however, may logically be treated differently, as the process of manufacturing surimi from fish flesh does indeed change it from recognizable flesh to a stabilized gel with very different characteristics. Food products subsequently produced from surimi, such as imitation crab meat, may be judged accordingly.

Verification and Enforcement

With respect to seafood, Mandatory Seafood Hazard Analysis and Critical Control Point (HACCP) regulations (21 CFR 123) already provide for a system of record-keeping with a verifiable audit trail for handlers/processors of seafood commodities. Under current HACCP regulations, every stop of the harvest is a "critical control point" and as such, is required to maintain documentation attesting to compliance with these regulations. For seafood imports, every shipment must be accompanied by a HACCP certification from the company of origin. Using HACCP forms as an existing framework, it would be fairly easy to incorporate country of origin information into the existing procedures. In addition, FDA regulations (21 CFR Parts 101, 102) already require packaged foods, including seafood, to bear labels with identity and nutrition information, and thus country of origin information could be incorporated into the existing scheme with which retailers, packagers, and processors are already familiar.

Thank you for the opportunity to provide comprehensive comments on the voluntary country of origin labeling guidelines. We recognize the complexity of this issue and we stand committed to working with you to ensure the program is implemented in a way that benefits consumers and minimizes cost.

Sincerely,



TRENT LOTT
United States Senator



JOHN BREAUX
United States Senator